

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

DIGITAL MEDIA SOLUTIONS, INC., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 24-90468 (ARP)
)
) (Jointly Administered)
) (Emergency Hearing Requested)

**DEBTORS' EMERGENCY MOTION
FOR ENTRY OF A SECOND ORDER (I) EXTENDING
TIME TO FILE (A) SCHEDULES AND STATEMENTS AND
(B) RULE 2015.3 FINANCIAL REPORTS, AND (II) GRANTING RELATED RELIEF**

[Relates to Docket Nos. 4, 49]

Emergency relief has been requested. Relief is requested not later than 1:00 p.m. (prevailing Central Time) on October 16, 2024.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

A hearing will be conducted on this matter on October 16, 2024 at 1:00 p.m. (prevailing Central Time) in Courtroom 400, 4th Floor, 515 Rusk, Houston, Texas 77002. You may participate in the hearing either in person or by an audio and video connection.

Audio communication will be by use of the Court's dial-in facility. You may access the facility at 832-917-1510. Once connected, you will be asked to enter the conference room number. Judge Perez's conference room number is 282694. Video communication will be by use of the GoTo platform. Connect via the free GoTo application or click the link on Judge Perez's home page. The meeting code is "JudgePerez." Click the settings icon in the upper right corner and enter your name under the personal information setting.

Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Perez's home page. Select the case name, complete the required fields and click "submit" to complete your appearance.

¹ A complete list of each of the Debtors in these chapter 11 cases and the last four digits of their federal tax identification numbers may be obtained on the website of the Debtors' claims and noticing agent at <https://omniagentsolutions.com/DMS>. The location of Debtor Digital Media Solutions, Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 4800 140th Avenue North, Suite 101, Clearwater, Florida 33762.

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) state the following in support of this emergency motion (the “Motion”):²

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached hereto (the “Order”): (i) extending the deadline by which the Debtors must file their (a) schedules of assets and liabilities, schedules of current income and expenditures, schedules of executory contracts and unexpired leases, and statements of financial affairs (collectively, the “Schedules and Statements”) by an additional 14 days from the October 15, 2024, deadline³ set forth in the *Order (I) Extending Time to File (A) Schedules and Statements and (B) Rule 2015.3 Financial Reports, (II) Modifying the Requirements of Bankruptcy Local Rule 2015-3, and (III) Granting Related Relief* [Docket No. 49] (the “First Extension Order”), to and including October 29, 2024, without prejudice to the Debtors’ ability to request additional extensions for cause shown, and (b) initial reports of financial information with respect to entities in which the Debtors hold a controlling or substantial interest as set forth in rule 2015.3 of the Federal Rules of Bankruptcy Procedure (collectively, the “2015.3 Reports”) to an additional 14 days to and including October 29, 2024, without prejudice to the Debtors’ ability to request additional extensions for cause shown; and (ii) granting related relief.

² The facts and circumstances supporting this Motion are set forth in the *Declaration of Joe Marinucci, Co-Founder and Chief Executive Officer of Digital Media Solutions, Inc. and Certain of its Affiliates, in Support of Chapter 11 Filing and First Day Motions* [Docket No. 17] (the “First Day Declaration”), and are incorporated by reference herein. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.

³ The Debtors’ current deadline to file the Schedules and Statements and the 2015.3 Reports is October 15, 2024. Pursuant to paragraph 30 of the Complex Rules, the filing of this Motion automatically extends the deadline by which the Debtors must file the Schedules and Statements and the 2015.3 Reports until this Court rules on this Motion. *See* Complex Rules ¶ 30 (providing that, unless otherwise provided by applicable law, a motion that is filed to extend the time for taking an action prescribed by the Bankruptcy Code, Bankruptcy Rules, or Bankruptcy Local Rules shall automatically extend the time for taking such action until the bankruptcy court rules on such motion).

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of Texas (this “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). The Debtors confirm their consent to the entry of a final order by this Court.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105(a) and 521 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), rules 1007(a)(5), 1007(c), 2015.3, and 9006(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), rules 1001-1, 1075-1, 2015-3, and 9013-1(i) of the Bankruptcy Local Rules, and the *Procedures for Complex Cases in the Southern District of Texas* (the “Complex Rules”).

Background

5. On September 11, 2024 (the “Petition Date”), the Debtors commenced filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. On September 12, 2024, this Court entered an order authorizing the joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b) [Docket No. 28]. The Debtors are operating their business and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases. On September 23, 2024, the United States Trustee for the Southern District of Texas (the “U.S. Trustee”) appointed an official committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code (the “Committee”) [Docket No. 127].

6. On September 12, 2024, this Court entered the First Extension Order, extending the deadline by which the Debtors must file the Schedules and Statements and the 2015.3 Reports to no later than October 15, 2024.

Basis for Relief

7. Section 521 of the Bankruptcy Code provides that the debtor shall file “(B) unless the court orders otherwise—(i) a schedule of assets and liabilities; (ii) a schedule of current income and current expenditures; (iii) a statement of the debtor’s financial affairs” 11 U.S.C. § 521(a)(1)(B). This Court has the authority to grant the requested extension under Bankruptcy Rules 1007(c) and 9006(b). Bankruptcy Rule 1007(c) together with Bankruptcy Rule 9006(b) allows the Court to extend the filing deadline for the Schedules and Statements “for cause.” Fed. R. Bankr. P. 1007(c) and 9006(b).

8. Here, good and sufficient cause for granting a further 14-day extension of the deadline by which to file the Schedules and Statements and the 2015.3 Reports exists. To prepare the Schedules and Statements and the 2015.3 Reports, as applicable, the Debtors must compile information from books, records, and documents relating to the claims of thousands of creditors as well as the Debtors’ many assets and contracts. As set forth in the First Day Declaration, the Debtors’ principal place of business is located in Clearwater, Florida. On and around September 25, 2024, Hurricane Helene made landfall along the Florida panhandle after passing through Clearwater, leaving Clearwater and the entire surrounding area damaged and personally affecting many of the Debtors’ employees. More recently, in the last few days, Hurricane Milton emerged in the Gulf of Mexico. Hurricane Milton made landfall in and around Clearwater on October 9, 2024, as a category 3 hurricane. During the week of October 7th, Clearwater was under evacuation orders.

9. Although the Debtors have been working diligently to meet the October 15 deadline, unfortunate circumstances outside of their control have impeded the Debtors' ability to satisfy the previously established deadlines. The Debtors are prioritizing the health and safety of their employees in these difficult times and believe that a modest extension of the deadline by which to file the Schedules and Statements and 2015.3 Reports is reasonable under the circumstances.

10. The relief requested herein will not prejudice any party in interest. The Debtors will work cooperatively with the U.S. Trustee and the Committee to provide access to relevant information regarding the business and financial affairs of the Debtors and their non-Debtor subsidiaries. Accordingly, the Debtors request that this Court extend the initial period to file the Schedules and Statements for an additional 14 days, for a total of 45 days from the Petition Date, without prejudice to the Debtors' ability to request further extensions for cause shown.

11. Courts in this district have granted similar relief in a number of cases. *See, e.g., In re SmileDirectClub, Inc.*, No. 23-90786 (CML) (Bankr. S.D. Tex. Oct. 2, 2023) (granting the debtors a total of 59 days from the petition date to file their schedules and statements); *In re Genesis Care Pty Ltd.*, No. 23-90614 (DRJ) (Bankr. S.D. Tex. June 1, 2023) (granting the debtors a total of 78 days from the petition date to file their schedules and statements); *In re Cineworld Grp. Plc.*, No. 22-90168 (MI) (Bankr. S.D. Tex. Sept. 8, 2022) (granting the debtors a total of 61 days from the petition date to file their schedules and statements).

Emergency Consideration

12. Pursuant to Bankruptcy Local Rule 9013-1(i), the Debtors request emergency consideration of this Motion by providing a detailed description of why an emergency exists. *See* Bankruptcy Local Rule 9013-1(i). Emergency relief is warranted under the circumstances described herein, because many of the Debtors' employees have been experienced two catastrophic

storms within a matter of weeks and are no longer able to adequately complete the Schedules and Statements and 2015.3 Reports in the time permitted by the First Extension Order. Absent relief, the deadline by which the Debtors must file the Schedules and Statements and the 2015.3 Reports would be October 15, 2024, and the Debtors would likely be forced to produce incomplete and/or inaccurate reports to the detriment of all stakeholders. Thus, the emergency relief requested herein will grant the Debtors' sufficient time to file their Schedules and Statements and 2015.3 Reports accurately and completely.

Notice

13. The Debtors will provide notice of this Motion to the following parties or their respective counsel: (a) the U.S. Trustee; (b) the Committee; (c) the Prepetition Agent and counsel thereto; (d) counsel to the DIP Lenders; (e) the agent under the DIP Facility and counsel thereto; (f) the office of the attorney general for each of the states in which the Debtors operate; (g) the Office of the United States Attorney for the Southern District of Texas; (h) the Internal Revenue Service; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, no other or further notice is required.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors request that the Court enter the Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Houston, Texas
Dated: October 11, 2024

/s/ John F. Higgins

PORTER HEDGES LLP

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*Proposed Co-Counsel to the Debtors
and Debtors in Possession*

Certificate of Accuracy

I certify that the foregoing statements are true and accurate to the best of my knowledge.
This statement is being made pursuant to Bankruptcy Local Rule 9013-1(i).

/s/ John F. Higgins

John F. Higgins

Certificate of Service

I certify that on October 11, 2024, I caused a copy of the foregoing document to be served
by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern
District of Texas.

/s/ John F. Higgins

John F. Higgins